



U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

February 19, 2014

The Honorable Carolyn N. Lerner
Special Counsel
Office of the Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: OSC File No. DI-13-2349 Supplemental Response

Dear Ms. Lerner:

This letter is in a response to an Office of Special Counsel (OSC) request for a supplemental report to the Department's original report to OSC File Number DI-13-2349. Please accept this correspondence as a supplemental report that addresses the three questions raised by your representative, Malvina Hryniewicz, in her email to me dated January 8, 2014.

First, OSC requested additional information regarding when and how FMC Rochester Nursing Department management officials have addressed the issue of alleged inappropriate "double diapering" of inmate patients with all nursing staff members. FMC Rochester Director of Nursing Lorelei Klema reported that all nursing staff attended FMC Rochester's mandatory "Annual Correctional Nurse Training Days" during 2014 on January 6, 13, 27 and February 3 and 10. All nursing assistants attended the January 27 session, which included a lesson titled "Patient Rounds." One part of this class focused on "Rounding Do's and Don'ts" and addressed the importance of ensuring a regular toileting schedule and not using excessive padding or "double diapering" with patients. Participants received laminated "quick reference cards" with this same information for use while on duty. Perineal and incontinence care was also reviewed and all participants were introduced to the "Mosby" nursing skills series, an online training resource which outlines standard care practices for perineal care and other types of basic patient care. Finally, FMC Rochester's "Patient Care Manual" is in the process of being updated to include instructions on not using excess padding in incontinence briefs.

Second, OSC requested an update on proposed disciplinary action against the four subject employees. Suspension proposal letters were issued to subjects Lockie, Wiplinger, and Nierman on January 31, 2014, and to Geier on February 3, 2014. Proposed penalties included: a five-day suspension for Geier; a three-day suspension for Nierman; and two-day suspensions for Lockie and Wiplinger. Consistent with due process, all four subject employees will be afforded an opportunity to provide the discipline deciding official with an oral or written response prior to a

final decision in each case. Absent any extension requests by the employees' representative, we anticipate that the discipline will be completed by the end of March 2014.

Third, we were asked to explain why BOP did not further investigate a reported observation that Subjects Lockie, Nierman, and Geier tended to not lay Inmate ██████ back down in bed upon his request. Upon investigation, BOP determined that there was nothing specific in inmate ██████ medical record or in BOP policy or procedures that required nursing assistants lay him back down in bed at his request. In addition, according to the BOP's Chief Nurse, nursing assistants -- who constitute the least trained among nursing staff and provide only limited care -- are not expected to immediately respond to all inmate requests, particularly if they are engaged in other duties (e.g., dispensing medications). BOP found that Nurse Sublett's specific order on April 30, 2013, (i.e., "Pt should only be in wheelchair 1 and a half to 2 hours at a time."), addressed this issue sufficiently addressed the matter.

Thank you for the opportunity to provide this information. It should be noted that the Attorney General has delegated to me authority to review and sign the report, in accordance with 5 U.S.C. § 1213 (d).

Sincerely,



Julie R. Zebrak
Deputy Chief of Staff